

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
NEW DELHI**

**(APPELLATE JURISDICTION)**

**APPEAL NO. 58 OF 2022**

**Dated: 21<sup>st</sup> April 2022**

**Present: Hon'ble Mr. Justice R.K. Gauba, Officiating Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

**In the matter of:**

- 1. JAIPUR VIDYUT VITRAN NIGAM LIMITED**  
[through its Managing Director]  
(JVVNL), Vidyut Bhawan, Janpath,  
Jaipur-302005 (Raj.), ... Appellant No.1  
*Email: cmd@jvvn.in*
- 2. AJMER VIDYUT VITRAN NIGAM LIMITED  
(AVVNL)**  
[through its Managing Director]  
Vidyut Bhawan, Panchsheel Nagar,  
Makarwali Road, Ajmer-305004 (Raj.) ... Appellant No.2  
*Email: ajmerdiscom@yahoo.co.in*
- 3. JODHPUR VIDYUT VITRAN NIGAM  
LIMITED (JdVVNL)**  
[through its Managing Director]  
New Power House, Industrial Area,  
Jodhpur-342003 ... Appellant No.3  
*Email: cmd\_jdvvnl@yahoo.com*
- 1. M/S JSW ENERGY (BARMER) LIMITED**  
(Formerly: Rajwest Power Ltd.),  
7th Floor, Man Upasana Plaza,  
C-44, Sardar Patel Marg,  
C-Scheme, Jaipur – 302001 (Raj.) ... Respondent No.1  
*Email: shashikant.modi@jsw.in*
- 2. RAJASTHAN ELECTRICITY REGULATORY  
COMMISSION**  
[through its Secretary]

“Vidyut Vinyamak Bhawan”,  
Near State Motor Garage,  
Sahakar Marg, Jaipur-302005 (Raj.)  
Email: [recjpr@yahoo.co.in](mailto:recjpr@yahoo.co.in)

... Respondent No.2

Counsel for the Appellant (s) : Mr. P.N. Bhandari  
Mr. Paramhans Sahani  
Counsel for the Respondent (s) : Mr. Aman Anand  
Mr. Aman Dixit for R-1

### **JUDGMENT (ORAL)**

#### **PER HON'BLE MR. JUSTICE R.K. GAUBA, OFFICIATING CHAIRPERSON**

1. This matter was taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.
2. This appeal filed by the Distribution Licensees operating in the State of Rajasthan brings a challenge to the order dated 30.05.2019 passed by the Rajasthan Electricity Regulatory Commission (hereinafter referred to as “RERC”) in Petition No. RERC/1329/18 followed by Review Order dated 15.01.2020 in Petition No. RERC/1530/19 presented by the first Respondent, a power generator using lignite as fuel. By virtue of the impugned decision in-principle approval has been granted to the first Respondent (*Generator*) by RERC to upgrade/modify Electrostatic Precipitators (*ESPs*) and the Lime Handling System in terms of recommendations of Central Electricity Authority (*CEA*) whose advise was sought by the Commission. The proposal for such augmentation or upgradation of

the systems at the power station was put up for approval by the first Respondent on the basis of amended emission norms. The relevant facts and directions, as captured in the impugned decision, may be quoted as under:

*“17. Commission observes that the Ministry of Environment, Forest and Climate Change vide notification dated 07.12.2015 has revised the environmental norms issued through Environment Protection (Amendment) Rules, 2015.*

*18. It is observed that the Environment Protection (Amendment) Rules, 2015 revised the norms for maintaining the SPM level at 50 mg/Nm<sup>3</sup> and SO<sub>2</sub> level at 600mg/ Nm<sup>3</sup> in the emission.*

*19. Petitioner at present maintain the SPM level in the emissions in the range of 75-80 mg/Nm<sup>3</sup> and SO<sub>2</sub> level in the range of 600-650 mg/ Nm<sup>3</sup> in the emission.*

*20. Commission observes that the prayers of the Petitioner are to allow upgradation/modification of the Electrostatic Precipitators and addition in Lime Handling System to meet the new environmental norms*

*21. Commission observes that CEA vide its letter dated 26.02.2019 recommended as under:*

*“ELECTROSTATIC PRECIPITATORS*

*vii. Recommendation*

*M/s RWPL needs to carry out modifications in existing ESPs to meet the new stipulated particulate emission norms of 50 mg/Nm<sup>3</sup> . Based on the layout furnished by M/s RWPL there is*

*no space available for installation of additional field in the ESPs, hence the option available to meet the new norms is by efficiency enhancement of exiting ESPs. The option proposed to be adopted by M/s RWPL to carry out the efficiency improvement i.e. HFTR/combination of HFTR and HFPTR appears to be generally in order.*

#### **LIMESTONE HANDLING SYSTEM**

##### *xi. Recommendation*

*At present M/s RWPL is able to meet the new stipulates SO<sub>2</sub> norms of 600 mg/Nm<sup>3</sup> with the lignite sulphur content of 1% and existing limestone dosing system of capacity 120 TPH (2X60 TPH). The bore hole data report of Barmer Lignite Mining Company Ltd. (BLMCL) indicates that the sulphur content of lignite may increase up to 2% or more in near future. Based on the present limestone consumption, the limestone consumption with 2% sulphur content is expected to increase to 98 TPH from existing 49 TPH. To meet the stipulated norms of SO<sub>2</sub> emission and to have system redundancy even with 2% or higher sulphur lignite, the proposal of M/s RWPL for installation of one additional stream of 60 TPH appears to be generally in order.”*

*22. CEA further advised that the cost of retrofitting of ESPs and one additional stream for limestone milling and dosing system for the plant should be discovered through open competitive bidding in consultation with Discoms.*

*23. Looking to the recommendation of Central Electricity Authority, Commission in-principally allows Petitioner to upgrade/modify the ESPs and the Lime HS in terms of the recommendation of CEA.”*

3. The appeal at hand is pressed on the submission that there is no need for such additional handling system to be brought in at this stage since sulphur levels are not rising to the extent projected.
  
4. Having heard the learned counsel on both sides, on careful perusal of the impugned decision, we find that the Commission has not examined on its own the need for such augmentation of the handling system. It has chosen to simply go by the advisement of the CEA. Though the opinion of CEA carries weight, in an adversarial situation adopting the recommendation as decision of the Commission may not be a correct approach. The learned counsel for the first Respondent fairly agreed, having taken instructions, that since the Appellants (*Distribution Licensees*) who are procurers of electricity from the former are aggrieved because of the additional burden in the cost of electricity that the addition of lime handling system would bring in, it would be appropriate, just and fair that the Commission be asked to independently examine the issue of *need* of such system and take a fresh call on the basis of inputs given or objections raised by the Appellants as well.
  
5. Since the impugned order is conspicuously silent on the above part of scrutiny, we feel it would be appropriate to set aside the impugned

order to the extent it had the effect of granting in-principle approval for the additional lime handling system and remand the matter to the Commission for fresh consideration. We order accordingly.

6. In the result, the matter arising out of the petition of the first Respondent, to the above extent, is remanded back to the Commission for fresh decision in accordance with law by a reasoned order which, needless to add, will be rendered by the Commission after affording effective opportunity of hearing to both sides. By abundant caution, we add that the Commission will approach the issue with open mind uninfluenced by the decision taken earlier. Contentions of both sides are kept open. Given the nature of the controversy, it is desirable that the Commission passes the fresh order expeditiously. We would request the Commission to do so preferably within two months of this remand order.
7. The appeal is disposed of in above terms.

**PRONOUNCED IN THE VIRTUAL COURT THROUGH VIDEO  
CONFERENCING ON THIS 21<sup>ST</sup> DAY OF APRIL, 2022.**

**(Sandesh Kumar Sharma)  
Technical Member**

**(Justice R.K. Gauba)  
Officiating Chairperson**

*mk/tp*